



IFW

Attorney Docket No. P71215US0

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of FRANK et al.

Confirmation Number: 6812

Application No. 10/575,864

Group Art Unit 1647

Filed May 15, 2007

Examiner Cherie Michelle Woodward

For STABILIZED PEPTIDES

TRANSMITTAL

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith please find:

- ☒ Response To Restriction Requirement
- ☐ Petition for extension of time
- ☐ Fee payment
 - ☐ Payment Form PTO-2038 (credit card) for \$ * is attached.
 - ☐ Charge \$ * to Deposit Account No. 06-1358.
 - ☐ Small entity status established in connection with the subject application.

Fee Calculation					
Excess Claims					
	Nº of Claims	Highest Nº Paid For	Excess Claims	Small Entity Fee	Large Entity Fee
Total	*	⊖ * =	0	⊗ \$25 = \$	⊗ \$50 = \$
Ind.	*	⊖ * =	0	⊗ \$100 = \$	⊗ \$200 = \$
[] Multiple Dependent Claims (1 st Filing)				⊕ \$180 =	⊕ \$360 = \$
Excess Claims Fee				\$	\$
Extension of Time Fee				\$	\$
Other:				\$	\$
Total Fee Due				\$0	\$0

- ☒ If a petition for extension of time is necessary, but not enclosed, then this acts as the petition. Charge any fees additionally necessary in connection herewith to Deposit Account No. 06-1358.

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Date: May 21, 2008

By

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RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The instant paper responds to the Office Action (restriction) mailed April 21, 2008.

Pursuant to the restriction requirement under 35 USC 121, election is made, hereby, to prosecute invention Group I, claims 1-25, 27, 29, and 31.

Pursuant to the requirement for election of species, species of "Formulas"—1a, 1b, 1c, 1d, 2, 3, 4a, 4b, 4c, 4d, 5, 6, 7a, 7b, 7c, 7d, 8a, 9, and 10—is elected. Claims 1-10, read on the elected species.

The Office Action (pages 5-6) maintains

that the instant claims contain sequences that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 CFR 1.821(a)(1) and (a)(2) ... [and so] the claims fail to comply with the requirements of 37 CFR 1.821 through 1.825.

The claims do not "fail to comply" with the requirements for biological sequences according to PTO Rules, contrary to the allegations found in the Office Action.

The sequences recited in the present claims (the reason for the alleged failure to comply) are expressly excluded from the Rules at issue. Each of the recited sequences is excluded either as "A cyclic peptide with a tail . . . regarded as a branched sequence, and thereby exempt from the rules," MPEP 2429, or as being among:

Sequences with fewer than four specifically defined . . . amino acids . . . specifically excluded from this section. "Specifically defined" means those amino acids other than "Xaa" [i.e., variable].

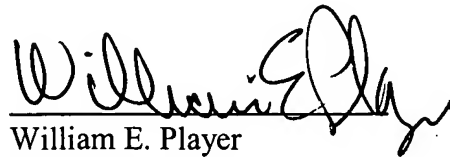
MPEP 2422.01 (emphasis added). Accordingly, neither a "Sequence Listing" nor amendments to the claims to include sequence identifiers is required "before the application can be examined," allegations to the contrary in the Office Action, notwithstanding.

Favorable action is requested.

Respectfully submitted,

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